

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00918R

Parcel No. 120/00024-000-000

Terry Goeperich,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Terry Goeperich was self-represented and requested a written consideration of the appeal. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Goeperich is the owner of a residential, one-story home located at 6007 SW 15th Street, Des Moines. The home, built in 1951, has 840 square feet of above grade finish; a full, unfinished basement; an enclosed porch; a deck; and a two-car detached garage built in 1999. The site is 0.261 acres.

The property's January 1, 2015, assessment was \$96,400, allocated as \$21,000 in land value and \$75,400 in improvement value. Goeperich's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property is assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition.

Goeperich appealed to PAAB and asserts the property's correct assessment is \$82,000.

Findings of Fact

Goeperich submitted the following four properties and their assessments as equity comparables to the Board of Review.

	2015 Assessed Value	Gross Living Area (GLA)
Subject	\$96,400	840
6106 SW 15th St	\$80,700	736
6009 SW 14th St	\$81,800	816
6104 SW 13th Pl	\$82,800	816
6108 SW 13th Pl	\$72,600	790

While the properties Goeperich submitted appear to be similar, there is no information indicating any of the properties have recently sold and Goeperich did not provide an opinion of market value for the properties. Therefore, an assessment/sale ratio analysis is unable to be developed. Simply comparing assessments is not sufficient evidence to support an equity claim.

Goeperich did not submit any new evidence to PAAB.

The Board of Review relied on five properties in its decision to deny the protest, summarized in the following chart.

	2015 Assessed Value	Gross Living Area (GLA)
Subject	\$96,400	840
5785 SE 19th St	\$97,300	816
1040 Amos Ave	\$94,300	864
5700 SW 14th St	\$95,800	840
119 Hackley Ave	\$94,600	856
1912 Highview Dr	\$99,400	839

The properties submitted are all similar size, one-story homes, like Goeperich's equity comparables. None of these properties has recently sold, however, and no opinion of market value was established to develop an assessment/sales ratio analysis.

The Board of Review also relied on five 2014 sales of comparable properties. The Board of Review adjusted the sales for differences with the subject and the

adjusted sales ranged from \$90,400 to \$104,800; or from \$97.62 to \$148.25 per-square-foot. The subject is currently assessed within the range at \$114.76 per-square-foot.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than

other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires residential assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Goepferich offered four properties for an equity analysis. However, none recently sold nor was an opinion of their market value established; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, Goepferich did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Goepferich did not offer any evidence of comparable sales to support his requested valuation of \$82,000. In contrast, the Board of Review relied on sales data of properties it considered comparable that indicate the property’s assessment is consistent with the market.

Based on the foregoing, we find Goepferich has not met his burden of establishing the property is inequitably assessed or over-assessed.

Order

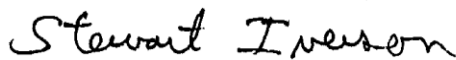
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 11th day of February, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Terry Goepferich

Christina Gonzalez